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September 10, 2003

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SEP 10 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 Twelfth Street, SW  
Washington, DC 20554

**Re: Ex Parte Presentation Notice: ET Docket No. 00-258;  
WT Dockets No. 03-66, 02-68; MM Docket No. 97-217;  
and IB Docket No. 99-81**

Dear Ms. Dortch:

On September 9, Billy J. Parrott, President and CEO of Private Networks, Inc. ("PNI"), James E. Lindstrom, President of Broadcast Data Corporation ("BDC"), and the undersigned, on behalf of the Ad Hoc MDS Coalition ("Ad Hoc"), met with John Muleta, Chief of the Wireless Telecommunications Bureau and Catherine W. Seidel and Shellie N. Blakeney of his office; Jamison S. Prime and Shamecka Hunt of the Office of Engineering and Technology; Sheryl J. Wilkerson of the Office of Chairman Michael Powell, and Trey Hanbury of the Office of the General Counsel, regarding various proposals under consideration for relocating the Multipoint Distribution Service ("MDS") from the 2150-2162 MHz band.

Ad Hoc's presentations were consistent with its prior submissions in the above-referenced dockets. Ad Hoc is a coalition of small and/or minority-owned MDS licensees including PNI and BDC. The record also indicates that there are also dozens of other small MDS licensees and service providers that are stakeholders in these proceedings and are not members of Ad Hoc but are supportive of Ad Hoc's position.

Ad Hoc requests that it be relocated to 1910-1996/1990-1996 MHz, a move which will not pose interference problems with various other spectrum users, is acceptable to its principal lessees, and will provide expedited broadband services to the public given the ability of MDS to transition to the 1900 band without delay – opening a clear path for AWS. However, if MDS' move to the 1900 band is not acceptable to the Commission, Ad Hoc respectfully requests that it be left in its current location. As small and minority businesses, there is significant economic harm due to the FCC's continued delay in deciding when and where to move MDS, which would be compounded by the FCC's decision to not provide comparable spectrum in capacity and size for MDS' forced relocation.

Continued delay and uncertainty will impede or destroy MDS' ability to meet current contractual obligations, which includes contracts with various service providers to lease

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MDS spectrum. As a result of this loss of revenue, for those MDS licensees that purchased their licenses at auction, they will be deprived of the means to satisfy their contractual obligations with the FCC to make installment payments. For all small MDS licensees, including auction winners and those that purchased their spectrum on the secondary market, all have faced great financial difficulty these past three years not knowing their ultimate fate. It is difficult, if not impossible, for small business MDS to raise money in this regulatory limbo. Ad Hoc seeks a speedy and favorable resolution by the FCC to avoid severe financial consequences.

Three years ago in the spirit of cooperation and national interest, Ad Hoc first championed the use of the 1900 MHz Band as a viable alternative if MDS was required to move from its current spectrum location at 2150 MHz, investing significant resources for research in a good faith effort to technically and equitably resolve the FCC's problems with allocating new spectrum for advanced wireless services, and minimizing interference on numerous other bands/services, including MDS. Today, the equitable and speedy resolution of MDS has taken a back seat to the desires of larger carriers that have considerably more financial resources, personnel, and time.

Therefore, Ad Hoc urged the Commission to act expeditiously and favorably on its proposals consistent with the Communications Act of 1934, as amended, in particular Section 257, Market Entry Barriers Proceeding, which mandates that the FCC "identify[] and eliminate[] . . . market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services, or in the provision of parts or services to providers of telecommunications services and information services." 47 U.S.C. § 257(a)

This notice is being filed in each of the above-referenced dockets. Please contact the undersigned if you have questions or comments.

Sincerely,

S. Jenell Trigg

*Counsel to Private Networks, Inc.*

cc John Muleta  
Cathy Seidel  
Shellie Blakeney  
Jamison Prime  
Shameeka Hunt  
Sheryl Wilkerson  
Trey Hanbury